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**THE MANITOBA COURT
COMMUNICATOR PROGRAM
- A REVIEW**

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EXECUTIVE SUMMARY

The purpose of this Program Review is to provide a description of the Manitoba Court Communicator Program and to identify issues and concerns leading to recommendations for Program enhancement. The Court Communicator Program has not been evaluated since 1977.

A total of eighty-one interviews were conducted with the Court Communicators, key actors in the justice system, representatives of native organizations and clients or potential clients of the Program. In addition, the Chief Judge of the Provincial Court and the Chief Court Communicator were consulted in the early stages of the study. The experience of native courtworker programs in other jurisdictions was also reviewed as well as the federal-provincial cost-sharing agreement for the Program and the overall philosophical framework for the native courtworker concept.

Eleven Court Communicators provide their services to accused native persons across the province. The purpose of the Program is to assist native people to develop a better understanding of their rights, interests, privileges and responsibilities in relation to the criminal justice system. The Court Communicator attempts to bridge whatever gaps exist between the criminal justice system and native people.

Generally, duties involve reviewing dockets on the morning of court, picking out native people by their names on the docket and calling out these names before court to determine who is in need of assistance. The Court Communicators then explain the nature of the charges, take Legal Aid applications for those who need legal counsel and have not yet obtained it, explain bail application procedures if needed, "shepherd" clients to the right courtroom, make referrals for alcohol/drug treatment, counselling etc. if needed, and in the occasional case, arrange for transportation back to rural areas if required.

Training consists of one or two weeks of on-the-job training with the incumbent Court Communicator or with a Communicator in a different locale in the province. The "Manual for Court Communicators" provides basic information on the objectives and activities of the Court Communicator Program, an introduction to the

Canadian Legal System, information on Family Law, the Indian Act and the Manual for Magistrates and Justices of the Peace.

Suggested improvements made by the Court Communicators are summarized under the headings of: liaison with criminal justice professionals, community-based activities, training needs, role clarification and overall general comments. There was a consensus that there is a need to increase the visibility of the Program with criminal justice professionals as well as with the respective native communities. Training was judged to be insufficient and specific suggestions were made. In terms of role clarification, Court Communicators are unsure of the extent to which they should be interpreting, speaking to sentence or involved in ancillary community activities such as participating in Justice Committees. The overall comments focused on the need for more field visits by the Chief Court Communicator and the need for more resources if the Communicators are to spend more time in community activities.

Study results indicate that circuit court parties seem to have a better understanding of the role of the Court Communicator than the Winnipeg-based respondents. It was often indicated that court parties could not do without the services of the Court Communicators. However it was often assumed that the primary role of the Communicator is one of interpretation; this perception was also reiterated by a substantial number of Winnipeg respondents. It appears that the term "communicator" leads many to believe that the major function is that of interpretation.

Both circuit court and Winnipeg respondents indicated that there is no official contact between the management of the Program and key actors in the system, to explain and clarify the purpose and mandate of the program and to discuss suggested improvements. This was viewed as a highly desirable activity which was echoed by community and native respondents. The concern that the Program suffers from lack of visibility and promotion both with criminal justice professionals as with the native communities was reiterated by the criminal justice respondents. A number of suggestions for program improvement were made and are included in the Issues and Recommendations Section of this report.

Interviews with other social service agencies, native agencies and clients and potential clients also indicate that these respondents are not fully aware of the mandate and activities of the Program as

well as how the Communicators could be utilized to the greatest benefit of their client group.

Issues and recommendations for the Program are organized according to three overall categories: administration, program enhancement and promotion. In addition, an "underlying principle" is identified which provides a context separate from the more operational issues.

This principle relates to the issue of native self determination and control over services for native people. As Manitoba is the only province in Canada where native courtworker services are delivered by a non-native agency and as "devolution" has started to occur, most notably in the area of child welfare, the "underlying principle" addresses the need for a full consultation process with native groups to determine the best management structure for the Court Communicator Program.

A summary of the recommendations is provided in a separate Section beginning on page 45.

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1. TERMS OF REFERENCE

PREAMBLE :

Subsequent to a recent review of issues pertaining to the Administration of Justice in Northern and Isolated Communities, the Attorney General requested that a Program Review be conducted of the Court Communicators Program, in order to determine whether the program could be improved, expanded and/or enhanced. The Program Review was conducted by the Research and Planning Branch, in consultation with the Department of Justice. As the Program is a province-wide service, the Program Review addresses issues relating to the overall Program and is not limited to northern and remote communities.

OBJECTIVES:

- 1) To provide a description of the present Court Communicators Program.
- 2) To review the experience of other jurisdictions in terms of objectives, structure, types of service delivery etc.
- 3) To identify issues and concerns leading to possible recommendations.
- 4) To determine to what extent the program is meeting its objectives in order to assess the feasibility of an enhanced and/or expanded program.

TYPES OF ISSUES ADDRESSED

- 1) **PROGRAM OBJECTIVES:** In what manner and to what extent are program objectives achieved as a result of the program? To what extent are the objectives and mandate of the program still relevant? If not, what should the objectives and the mandate of the Program be?
- 2) **TRAINING:** What training is provided to Court Communicators? Is there a provision for ongoing training? What are the present training needs?
- 3) **SERVICE DELIVERY:** To what extent does staff deployment reflect target group demography and level of required service? Can any

inefficiencies be identified in the system? If so, what are they? What are the obstacles which hamper efficient and effective service delivery? How does the program address these obstacles?

4) INFORMATION SHARING AND COMMUNICATION: What reporting mechanisms have been established? Is there regular communication among the Court Communicators and the key actors in a systematic fashion?

5) DATA SOURCES: What statistical information is regularly collected by the court communicators on types of service offered and number of clients served? Is this information shared among the court communicators?

6) PROGRAM OUTPUTS: Are the activities and outputs of the program consistent with its mandate and plausibly linked to the attainment of the objectives and the intended impacts and effects? What management structures exist to ensure that activities reflect the objectives and mandate of the Program?

7) PROGRAM IMPACT: What degree of credibility has the program established with native people and key actors? What impacts and effects, both intended and unintended, have resulted from the program? How well does the Court Communicator Program ensure that potential clients and key actors become aware of the Program? How does the Program ensure that key actors in the criminal justice system will utilize the Program? What is the level of success of the Court Communicators in providing public awareness and education programs?

2. RESEARCH APPROACH

The time frame for the study was approximately seven weeks, i.e. from November 3, 1986 to December 19, 1986. The terms of reference, the general research approach and interview schedules were developed in consultation with the Chief Court Communicator with some consultation with the Department of Justice. In addition, the researcher participated in a two-day meeting of the Court Communicators where a general discussion was held about the intent of the Program Review.

Individual interviews were conducted with all of the eleven Court Communicators in the province. A total of forty-eight interviews were also conducted with key actors in the justice system i.e. judges, crown attorneys, various members of court personnel, RCMP officers and Band Constables outside of Winnipeg, Probation Officers, defence counsel, various representatives of private agencies, and representatives of native organizations. Police Officers in the Winnipeg area were not interviewed because of time constraints and because it was assumed that they, or rather any one representative, would not have had regular enough contact with the Program to provide useful feedback. In addition, twenty-two interviews were conducted with clients and potential clients of the Court Communicators, primarily in the city of Winnipeg.

Three geographical areas were selected for the study; Winnipeg, as a representative heavy urban caseload, Gypsumville as a sample area in the Interlake region where the circuit court serves five surrounding reserves, and Thompson where a high number of northern circuit courts originate. Researchers for the study attended circuit court sittings in Brochet, God's Lake Narrows and Norway House as well as regular court sittings in Thompson itself. Interviews were conducted as previously described and types of respondents interviewed are outlined in Table 1. Interview Schedules for the study are included in Appendix A. As the Interview Schedules indicate, the nature of information sought was impressionistic in nature, reflecting answers to questions relating to qualitative information as opposed to a quantitative research approach. Statistical information collected by the Court Communicators is of interest but does not provide the basis for conclusions that could be assessed in a quantitative manner. This will be discussed in the Statistical Information Section of this report.

TABLE 1 - TYPES OF RESPONDENTS INTERVIEWED

TYPE OF RESPONDENT	GYPSUMVILLE	AREA THOMPSON & NORTHERN CIRCUITS	WINNIPEG
Court Communicators	-all 11 interviewed from all regions-		
Judges	1	2	2
Crown Attorneys	1	2	3
Defence Counsel	0	3	2
Other Court Personnel	1	3	0
Police	3	2	0
Remand Centre	0	0	2
Probation/Parole	1	4	1
Other Social Services	0	1	6
Clients	0	2	22
Native Organizations	0	2	4

It should be emphasized at the outset that, due to time constraints, this study cannot claim to be comprehensive as only three geographic areas were actually surveyed. However results presented in this report will provide a general account of the extent of Court Communicator services provided in the province as well as issues which may be deemed to relate to the Court Communicator Program in general.

3. BACKGROUND

a) Purpose of Native Courtworker Programs

Federal funding of courtworker programs commenced in 1969 through short term grants provided by the Department of Indian Affairs and the Department of National Health and Welfare. These programs were viewed as experimental in nature at that time. The program was assigned to the Department of Justice in May of 1972. According to a report entitled "Native Canadians and the Criminal Justice System - An Evaluation Assessment and Evaluation of the Native Courtworkers Program", the problem which was to be addressed by the Programs was "...a disproportionately high conviction rate for crimes and provincial offences for native people, or a disproportionately high incarceration rate for native people or both....the problem has many facets, but one of them is clearly the failure of native people to understand their rights and obligations in what to them is an alien sytem"¹. It was believed that these programs would result in a reduction of native people pleading guilty to charges they did not understand. Often native people were not aware of their right to legal counsel, and a basic thrust of the programs included a referral mechanism to assist native people in obtaining alcohol/drug/family counselling etc. as required.

The role of the native courtworker was specifically viewed as "friend of the accused", much like the work of Elizabeth Fry in 19th century England, where a friend assisted the accused in understanding the court sytem. However native courtworkers do not act as friends of the court in the American sense of "amicus curiae". There the friend is an individual or government official who has strong views on the particular matter. The native courtworker is not a friend to the accused in that s/he is not a friend or employer who may be called as a character witness to give sworn testimony. The native courtworker is interested in the fair treatment of the accused and is not part of the adversarial process. The work therefore includes explaining charges and court procedure to the accused but may also include providing liaison between the accused and defense counsel therefore performing, in a sense, the role of friend to the

¹Native Canadians and the Criminal Justice System - An Evaluation Assessment and Evaluation of the Native Courtworkers Program.
Bureau of Programme Evaluation and Internal Audit, Department of Justice, May 1985. pg 8.

court. Generally, the purpose of native courtworker programs is to gain fair and equitable treatment for native people involved in the legal system.

b) Historical Background in Manitoba.

The Winnipeg Friendship Centre began providing in-court assistance to native people in the mid-1960's which included help in overcoming language and communication barriers, advice in overcoming unfamiliarity with court procedures, information about charges laid and referrals for appropriate services when required.

In 1971, the Court Communicator Program in Manitoba was formalized when it became a program of the provincial Attorney-General's Department under the direction of the Chief Judge of the Provincial Court. The program primarily arose out of provincial concerns about the high proportion of native people incarcerated in penal institutions. Both the Manitoba Metis Federation and the Winnipeg Indian and Metis Friendship Centre had communicated similar concerns to representatives of the provincial government and urged the establishment of a courtworker program in the province. In the fiscal year 1971-1972, four native Court Communicators were hired as a means of addressing this problem.

The four native Court Communicators were located in Winnipeg and The Pas. It quickly became evident that the four Court Communicators could not handle the heavy caseload, and that the program required expansion. In 1972-1973, full-time and part-time positions were created throughout the province until each court circuit of the Provincial Court had a Court Communicator to attend court sittings in both urban and remote communities.

In 1977, an evaluation of the Court Communicator Program was conducted by Murray Sinclair. The Sinclair Report indicates that, at that time, Court Communicators were located as follows: full-time Court Communicators in Winnipeg (3), Portage-la-Prairie, Brandon, Dauphin, The Pas, Thompson, and Norway House; a part-time Court Communicator serving the communities of Easterville, Grand Rapids and Oxford House. In addition, four full time workers were hired to act in the combined role of Court Communicator and Probation Aide, in the communities of Cross Lake, God's Lake Narrows, Roseau River and Fort Alexander. The Department of Corrections and Rehabilitative Services shared half the salary costs of these workers,

through the mechanism offered by the New Careers Branch of the Department of Education. All four individuals received direct supervision by the Probation Services Branch.

In 1974, the provincial and federal governments negotiated and signed a cost-sharing agreement for the Program. The agreement allowed for the expansion of the program during the 1975-76 fiscal year and established the position of Chief Court Communicator as the administrative manager of the Program.

c) Federal-Provincial Agreement

From 1974-1976, the Manitoba Court Communicator Program received funding from the Government of Canada as one of many native courtworker programs funded on a "pilot" basis for agreed shareable costs. It was also concurred that the agreement could be renewed under the conditions agreed to by both parties. The agreement also provided that "funding by Canada would be discontinued after March 31st, 1976 unless by that time the Court Communicator Program is administered by an independent native service organization or Canada is satisfied that the native people of Manitoba wish the program to be administered by a Government agency". In addition, the cost-sharing agreement required that an Advisory Council be established for the Program, comprised of representatives from native organizations, to ensure that a mechanism for native policy input was provided.

In response to a request by the Deputy Attorney-General of Manitoba, the Deputy Minister of Justice agreed to a one year extension of the cost-sharing agreement which expired on March 31st, 1976 on condition that:

- "a) An evaluation is performed by an independent body that is acceptable to the native people, the Attorney-General's Department of Manitoba and the Federal Department of Justice.
- b) Serious consideration (will) be given to the recommendations arising out of the evaluation in consultation with major parties concerned with the program."

Manitoba accepted the conditions as stated above.

During the summer and early fall of 1976, officials of the Department of Justice, the Attorney-General's Department and the native organizations negotiated and agreed to hire Murray Sinclair to conduct the evaluation and terms of reference were developed and approved. The Sinclair Report was submitted in March of 1977.

In May of 1977 a meeting was held with all parties present to discuss the report and its recommendations. The major point at issue was whether the program should continue to be administered by the Attorney-General's Department through the Chief Judge of the Provincial Court or by an independent native organization.

As a result of written representations made by native organizations in Manitoba, the Minister of Justice agreed to extend the cost-sharing agreement for the Court Communicators Program on an open-ended basis. However, there was some indication that native organizations would be asked to renew their commitment to support the administration of the program in three years' time. It was also indicated that a further evaluation should be undertaken at the same time. However, no agreement was reached as to the feasibility of an evaluation, and as a result native organizations were not asked their views on the program and its administration in 1980.

A copy of the current cost-sharing agreement is included in Appendix B.

d) Brief Review of Other Jurisdictions

Native Courtworker Services are cost-shared by the federal Department of Justice and the respective provincial/territorial governments. The following is a brief review of how courtworker services are delivered in each province and territory. However, as some of the information is not readily available, it was not always possible to indicate the actual number of courtworkers in some jurisdictions or the objectives and structure for the Programs..

YUKON

Presently, the Skookum Jim Indian Friendship Centre is on contract to deliver the Native Courtworker Program in Whitehorse as an interim measure. This arrangement was made to permit the Yukon Territorial Government to explore the most appropriate

delivery mechanism for the program with the Council of Yukon Indians. The Centre currently employs two Native Courtworkers. Services are presently restricted to Whitehorse.

NORTHWEST TERRITORIES

The carrier agency for the program is the Northwest Territories Courtworkers Association. The association employs nine courtworkers in the Western Arctic. The twelve members of the Board of Directors are elected on a regional basis by and from the native communities.

BRITISH COLUMBIA

In British Columbia, the carrier agency for the program is the Native Courtworker and Counselling Association of B.C. Representatives for the Board of Directors are elected from the regions across the province which in turn elect a President.

ALBERTA

In Alberta, the Native Courtworker Program is administered by the Native Counselling Services of Alberta. This carrier agency for the program is an autonomous, non-profit, non-sectarian social service agency. The Board consists of seven native people with no government officials. Each year, the Executive Director selects seven prominent Metis, Status and non-Status Indians in consultation with the Indian Association of Alberta. The distinguishing characteristic of this carrier agency is that no outside agency or organization has any direct control over the policy orientation of the program. Native Counselling Services employs 32 courtworkers and five trainers, one of whom is the Director of training. In addition to courtworker services, the agency also provides a wide array of social service programs.

SASKATCHEWAN

The Saskatchewan Association of Friendship Centres is the carrier agency for the Native Courtworker Program. The Association employs approximately twenty-three Native Courtworkers located in the eleven Friendship Centres across the province. The Board of Directors of the Association of Friendship Centres is responsible for the overall administration of the courtworker service program in

accordance with the policies and directions of the Board. Each of the eleven Friendship Centres provides local administration of the courtworker program in all areas excepting financial management.

ONTARIO

In Ontario, there are five carrier agencies for the Native Courtworker Program: the Ontario Federation of Indian Friendship Centres, the Native Canadian Centre of Toronto, the St. Catharines Native Centre, the Thunder Bay Native Centre and the Red Lake Native Centre. The Ontario Federation employs nineteen Native courtworkers; there are no numbers presently available for the other four unaffiliated Friendship Centres.

QUEBEC

Native Para-Judicial Services of Quebec is the carrier agency for the Native Courtworker Program in this province. The Association employs eighteen Native courtworkers across the province. The Board of Directors is comprised entirely of native people. Each year, the group members send two delegates to an annual assembly. At that assembly a board of nine is selected so that not one organization has two representatives. Group members consist of both political and non-political associations which serve under the separate umbrella of the Board for the Courtworker Program.

PRINCE EDWARD ISLAND

From 1976 - 1981 the P.E.I. Native Justice Council was the responsible carrier agency for the Courtworker Program. The Committee was composed of Status and Non-Status Indian Organizations. In 1981, Native groups requested termination of the Program as they believed that the demand for courtworker services was limited and resources should be spent on crime prevention rather than in-court communication and referral service. However, recently an interest has been developing to re-introduce the Native courtworker program in P.E.I.

NOVA SCOTIA

From 1974 - 1976, the Union of Nova Scotia Indians served as the carrier agency for the courtworker program. The Union of Nova Scotia Indians had the mandate to represent all Native people in

Nova Scotia. When the Native Council of Nova Scotia representing Non-Status Indians emerged, questions were raised as to which organization should administer the program. Before this matter could be resolved, the Union of Nova Scotia Indians rejected the native courtworker program as it required a federal-provincial cost sharing agreement which in their view jeopardized their stand on aboriginal rights. The program was terminated by the province in 1976.

NEW BRUNSWICK

The Union of New Brunswick Indians operated a small courtworker service from 1974 -1976. At that time, efforts were made by the Union to have courtworker services funded entirely by the federal government through the Department of Indian Affairs. When it was clarified that the Department of Justice would be responsible for the federal funding and implementation of the program, the Union declined to continue the program.

NEWFOUNDLAND/LABRADOR

Labrador Legal Services is the carrier agency for the Native Courtworker Program in Newfoundland. There are three courtworkers serving the aboriginal communities in Labrador. The Board of Directors consists of eight persons chosen by the Native organizations and one representative from the provincial government.

4. DESCRIPTION OF THE MANITOBA COURT COMMUNICATOR PROGRAM

a) Present Activities

In a document prepared by the managers of the Program, the objectives of the Court Communicator Program are stated as follows:

"The objectives of the Court Communicator program are to assist Native peoples in Manitoba to develop a better understanding of their rights, interests, privileges and responsibilities in relation to the criminal justice system. It is the role of a court communicator to assist Native peoples, wherever they may be in the criminal justice system, through the process. The court communicator attempts to bridge whatever gaps exist between the criminal justice system and the Native people"

A further description of the objectives of the Program is contained in Appendix C.

The following description of "function" is more specific and is drawn from the "Manual for Court Communicators":

1) To act as a liaison with the police in circumstances where a person has been accused of an offence, or otherwise taken into custody, or where an investigation is in process, where it is apparent that a simple explanation will result in the abandonment of further proceedings.

2) To advise an accused person as to the court process, the meanings of relevant aspects of that process and alternative courses of action open to the accused.

3) To assist in contacting legal counsel, or in the case of indigency, the Legal Aid Society, to ensure that legal representation will be obtained, and after appointment of counsel, to assist in communication between the accused person and his lawyer.

4) In cases where legal counsel is not obtained and legal aid can not be provided, then the communicator may obtain advice from the Legal Aid Society in circumstances where such is deemed advisable in order to assist the accused.

5) In cases where the accused person is in custody, to assist in having such person released on bail or otherwise.

6) In the event of a plea of guilty and the accused is not represented by counsel in court, then the communicator may present mitigating circumstances or explanations to assist the accused in presenting beneficial information to the court.

7) To assist detained persons, as well as the police, in contacting relatives, social agencies and any person who might be of assistance, and contacting any specific agencies where assistance might be indicated through involvement of the accused in the court process.

8) To act as liaison with the Probation Service -

- (a) contacting the Probation Service where a pre-sentence report is necessary;
- (b) assisting the probation officer in the preparation of a pre-sentence report;
- (c) assisting in explaining the terms of probation;
- (d) where probation supervision is ordered, to assist in providing the names of honorary or part-time probation workers;
- (e) where an accused is in custody and already on probation or on parole, to make an initial contact with the probation officer or probation liaison officer or parole officer.

9) To establish contact with various reservations and Indian and Metis organizations in their areas so that the communicator might be advised in the first instance as to when their services might be required.

10) Keeping records of matters processed, including the nature and extent of services rendered for statistical purposes.

This outline of duties was developed in the initial stages of the implementation of the Court Communicator Program. Interviews with the Court Communicators indicate that they perform a variety of activities but not necessary to the extent described in the Manual.

There are 11 Court Communicators located in Brandon (1), Grand Rapids (half-time), Dauphin (1), Fort Alexander (1), Portage la Prairie (half-time), The Pas (1), Thompson (2), and Winnipeg (3).

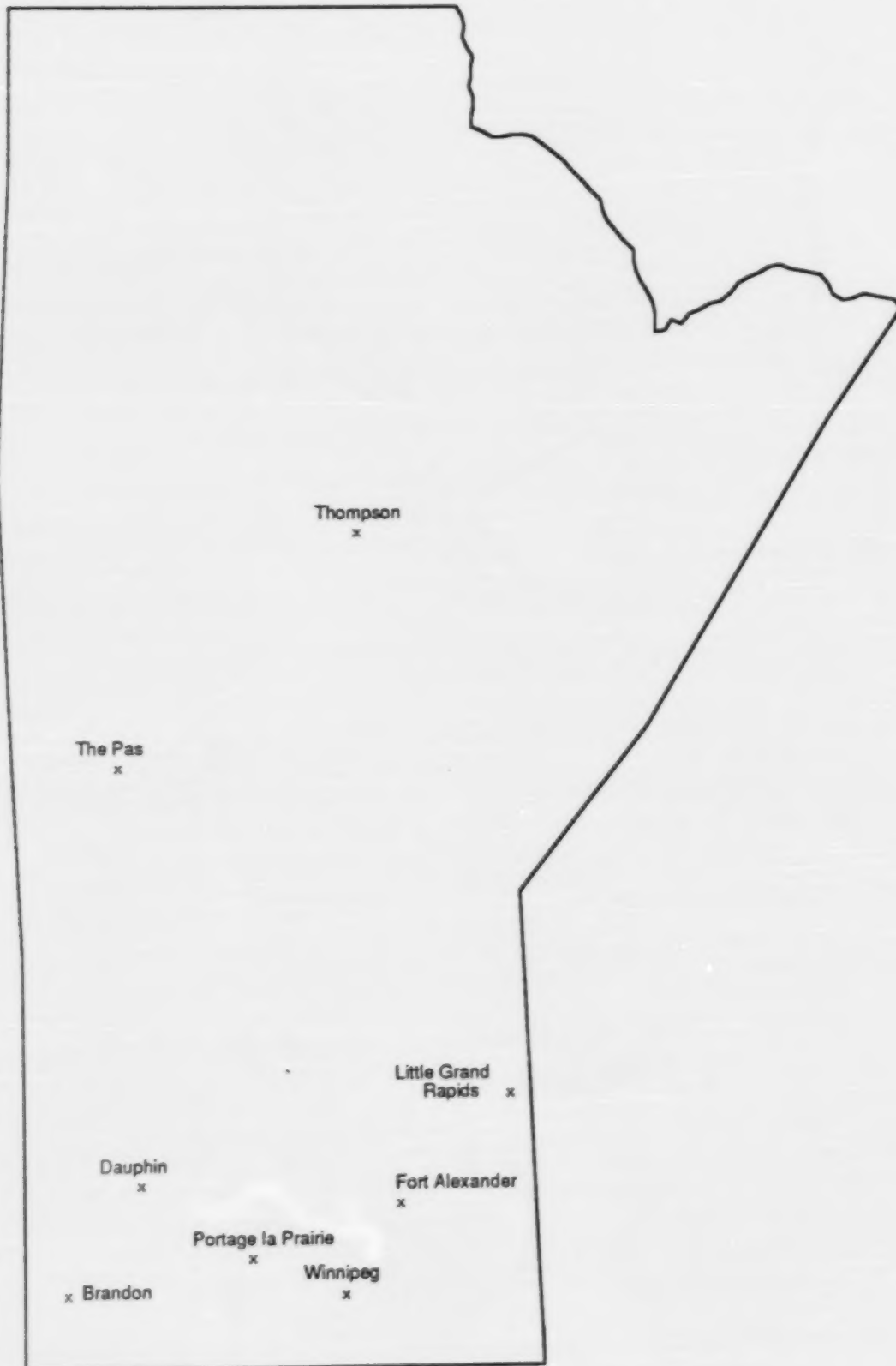
One of the Court Communicators in Winnipeg travels extensively on circuit to cover the Interlake region. The map in Figure 1 provides the location of the Court Communicators across the province. In addition, the Chief Court Communicator is located in Winnipeg.

The Winnipeg Court Communicators are located in the Public Safety Building. Their activities centre around courts located in that building, thus they rarely attend at courts in other parts of the city i.e. 373 Broadway, Court of Queen's Bench or Youth Court. They may attend at these courts on request.

Generally, duties involve reviewing dockets on the morning of court, picking out native people by their names on the docket and calling these names out before court to determine who is in need of assistance. The Court Communicators will then explain the nature of the charges, take Legal Aid Applications for those who need legal counsel and have not yet obtained it, explain bail application procedures if needed, "shepherd" clients to the right courtroom, make referrals for alcohol/drug treatment, counselling etc. if needed, and in the occasional case arrange for transportation back to rural areas if required. In addition, they will contact families and relatives about the case if this communication is necessary. Occasions sometimes arise where the Court Communicator will provide information to the court at the point of sentencing, especially in relation to employment, marital status or other descriptive information. In Winnipeg, Court Communicators do not visit inmates in the Remand Centre on a systematic basis, but do go on request. Court Communicators sometimes take cases on bail supervision but this happens seldomly. It does not appear that the Court Communicators are engaged in liaison activities, although one Court Communicator did at one time conduct information sessions on the criminal justice system in some schools in the Interlake region.

The Winnipeg-based Court Communicator responsible for the Interlake region attends circuit court sittings in Gypsumville, Ashern, Lundar, Fisher Branch, Arbour, Toulon, Stonewall, Gimli and Selkirk. This necessitates travelling on average four days a week. Duties on these circuits include liaison between court officials i.e. Crown Attorney, Legal Aid and the accused. The Court Communicator takes Legal Aid Applications in order to secure legal counsel, and advises the accused as to the nature of the charges and as to sentencing alternatives i.e. community service orders, fine options program etc.

FIGURE I - GEOGRAPHICAL LOCATIONS OF THE COURT COMMUNICATORS



The Court Communicator located in Brandon attends adult criminal court in Brandon as well as circuit court sittings in Minnedosa, Rossburn, Russell and Virden. Due to travel and the heavy caseload in these areas, he is not able to attend circuit court in Boissevain or Youth and Family Court sittings in Brandon.

In Brandon, the Court Communicator sees his role as primarily making people aware of why they are in court, obtaining legal counsel and informing the court of circumstances of which they should be aware. He interviews clients in the Remand Centre, takes bail applications, obtains background information, facilitates communication between Crown Attorneys and defence counsel, refers clients to social service agencies if appropriate and engages in general liaison activities with native organizations in the area. As mentioned, the Court Communicator speaks to sentence when required.

A half-time Court Communicator provides services in Grand Rapids and Easterville. He views his purpose as helping native people obtain a better understanding of the criminal justice system. He reviews dockets before court, takes Legal Aid applications, requests remands when legal counsel is not available, provides interpretation to the court when needed, and provides liaison between Crown Attorneys and defence counsel on specific cases.

The Court Communicator based in Fort Alexander also attends circuit court sittings in Bloodvein, Berens River, Little Grand Rapids, Pauingassi and Pine Falls. Generally, he sees his role as explaining charges and the court system to accused native people. This Court Communicator also spends half his time supervising a probation caseload of approximately 38 young persons. He believes that there is role conflict in acting as a Court Communicator and probation officer at the same time. There is some confusion created by, on the one hand, helping the accused at the front end of the system, and on the other hand, being responsible for supervision at the later point. This confusion affects his credibility in the communities as a Court Communicator. Also this heavy probation caseload does not permit him to attend to "Court Communicator work" as much as he would like.

In Dauphin, the Court Communicator also attends circuit courts in Roblin, Swan River, Grandview, Gilbert, Winnipegosis, and Ethelbert. She assists native people in understanding the charges,

ensures that there is legal representation, directs witnesses, attends Youth Court on request when time permits, and explains the court procedure as much as possible in the native tongue of the accused. In addition to these formal duties, the Court Communicator is also involved in a number of community-based committees such as the alternative measures committee, fine options, committees overseeing community service orders and is a member of the Transition House Board of Directors. Participation in the alternative measures committee permits her to be aware of native young offenders in the community as she is not able, because of time constraints, to attend Youth Court. Occasionally the Crown Attorney or Judge will request background information on specific accused persons which she provides. Also, the Court Communicator will participate in general information workshops on the criminal justice system when the occasion presents itself.

Based in Portage la Prairie, a half-time Court Communicator covers court in Portage as well as Amaranth. He is not able to attend in Treherne, Carman, Morden and Gladstone. With the exception of Treherne, there are apparently few native offenders in these communities. Basically duties involve explaining charges to the accused before court, obtaining legal counsel, taking Legal Aid applications, facilitating liaison in the criminal justice community and speaking on behalf of the accused in relation to age, marital status, employment history etc. when required. Youth Court is attended on request only.

In The Pas, the Court Communicator also attends circuit court in Wanless, Moose Lake, Flin Flon, Cranberry and Snow Lake on request. The role of the Court Communicator is viewed as assisting native people in the court process by explaining rights and options and obtaining legal counsel especially for remand cases. In addition, time is made available for liaison with other criminal justice actors in the system and posters and pamphlets about the Program are provided. Liaison ensures that appropriate referrals are made to social agencies as needed.

There are two Court Communicators located in Thompson. In addition to regular sittings in Thompson court, a Court Communicator attends circuit court sittings in the following communities: Brochet, Churchill, Cross Lake, Garden Hill, Gillam, God's Lake Narrows, Leaf Rapids, Lynn Lake, Nelson House, Split Lake, Norway House, Oxford House, Poplar River, Pukatawagan, Shamattawa and South Indian

Lake. The major activities of the Court Communicator, especially on circuit, is providing interpretation during client interviews with Legal Aid and interpreting during court proceedings. Efforts are made to speak to the accused to explain the nature of the charges and general court proceedings prior to court but the heavy dockets and the limited time available due to the time constraints of the fly-in courts often make this task impossible in a consistent manner. Court Communicators state that there is an assumption among members of the court parties that the primary role of the Communicators is that of interpretation. One of the Communicators has stated that she prefers not to interpret but does not have the choice. In addition the Court Communicators are sometimes asked by the Crown Attorneys to check the accuracy of witness information and to do some preparation of witnesses. They generally do not speak to sentence or get involved in matters pertaining to bail. Also because of the time constraints, there is no time to conduct general liaison activities with the communities visited.

b) Training

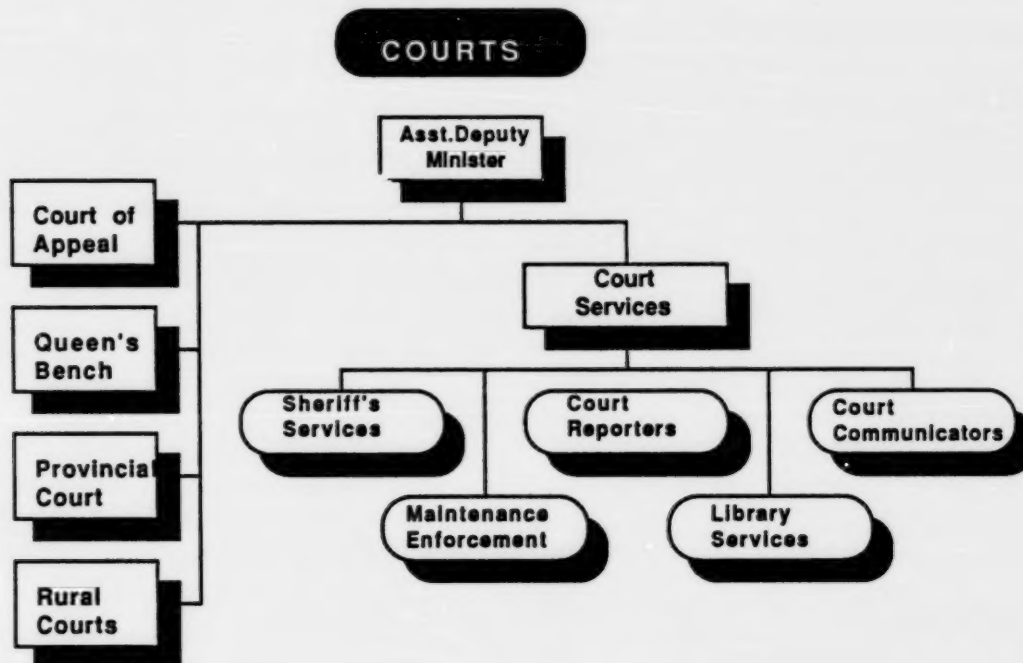
The range of years of employment among the Court Communicators varies from 11 months to 15 years with eight Court Communicators who have been functioning in that role for over six years. Four of these eight have over ten years experience.

There is no formal training program in place. Basically, training for Court Communicators with the exception of one, has consisted of one or two weeks of on-the-job training with the incumbent Court Communicator or with a Communicator in a different locale in the province. In the one case, the Court Communicator was hired through the New Careers Program for a period of two years and was provided with a more varied training program.

Training tools consist of the "Manual for Court Communicators". This Manual includes basic information on the objectives and activities of the Court Communicator Program, an introduction to the Canadian Legal System, information on Family Law, the Indian Act and the Manual for Magistrates and Justices of the Peace.

c) Management Structure

The Program is administered by the Chief Court Communicator who reports to the Chief Judge of the Provincial Court, although the organizational chart for the Department of the Attorney General indicates that the Chief Court Communicator reports to the Director of Court Services (see the following organizational chart). The Chief Court Communicator is located in the offices of The Native Clan Organization, Inc., an organization of which the Chief Court Communicator is President.



In 1975, the federal-provincial cost-sharing agreement specified that an Advisory Board with representation from native organizations be established to ensure a mechanism for native policy input for the Program. The Advisory Board is comprised of the Chief Judge of the Provincial Court, the Deputy Attorney-General, the Executive Director of Native Clan, a representative of the Manitoba Metis Women's Association, a representative of the Department of

Indian Affairs, and representatives of the Manitoba Indian Brotherhood, the Manitoba Metis Federation, and the Indian and Metis Friendship Centre respectively. It appears that the Advisory Board has not met since 1980. In addition, since that time, changes have occurred in some of the representative native organizations. For instance, the Manitoba Indian Brotherhood no longer exists, and two new organizations, the Brotherhood of Indian Nations and the First Nations Confederacy have since come into existence. Issues pertaining to native organizations and the Court Communicator Program will be discussed in a subsequent Section of this report.

d) Budget

The budget for the Court Communicator Program since fiscal year 1984/85 is presented in Table II. It is worth noting that the Program is consistently underexpended, particularly in the category of salaries. This is primarily due to the fact that of the 14 positions, (12 permanent, 2 term), at the time of this report, only 10 positions, (9 full time, 2 half-time) are presently filled.

Table II - Budget For the Court Communicator Program

	1984/85 Budget	1984/85 Actual	1985/86 Budget	1985/86 Actual	1986/87 Budget	1986/87 Actual (at Dec. 31)	1987/88 Budget	1987/88 Actual
Salaries	\$351.1	\$320.5	\$368.1	\$294.4	\$372.6	\$228.7	\$415.9	
Vehicles-employees	26.3	26.9	29	25.5	27.5	11	27.5	
Aircraft-employees		14.5	12.6	11.2	12.6	12.1	12.6	
Other transportation		0.6	1.5	0.7	1.5	0.7	1.5	
Communications	7.9	5.7	7.1	5.5	7.1	4	7.1	
Office supplies	3.4	0.8	3.8	1.3	3.8	2	3.8	
Rentals		0.3	0.6	0.4	0.6	0.3	0.6	
Other fees	8.6	6.3	8.6	5.9	8.6	3.4	8.6	
Furniture	0	0	0	0	0	0.6	0	
Hotels		2.4	2.2	2.8	2.2	2.1	2.2	
Meals	22.1	5.1	4.6	4.8	4.6	3.6	4.6	
Publications		0.2	1	0	0	0.1	0	
Other operating	4.1	0.7	0.5	0.1	0.5	0.1	0.5	
	423.5	384.0	439.6	352.6	441.6	268.7	484.9	0

5. PERCEPTIONS OF THE COURT COMMUNICATORS

The previous Section provided a descriptive account of the current Court Communicator Program; this Section will focus on comments made by the Court Communicators about their role and suggested improvements about the Program. Comments can be grouped under five headings: liaison with criminal justice personnel, community-based activities, training needs, role clarification and overall general comments. It should be stated at the outset that some of these suggestions regarding improvements in the Program are a result of activities the Court Communicators would like to undertake, but are not able to, due to general time constraints or problems associated with the current circuit court structure.

There was a consensus among all the Court Communicators that there is a need to increase the visibility of the Program among criminal justice professionals. Although the problem of visibility is less of a issue in the smaller communities, it was stated that more regularly scheduled meetings with the key actors to explain the role of the Court Communicator and to discuss how services could be improved, would be a general asset to the Program. In addition, regular contact could result in stonger professional relationships with referral sources leading to more effective service delivery by these referral sources. The increased use of signs, posters and pamphlets about the Program would help to promote the Program. A pamphlet about the program does exist, although it does not provide current information about the Program.

Similar to the concern about greater liaison, with key actors, is a strongly expressed need to increase the visibility of the Program with the respective communities. Community liaison workshops could be held in some areas, and meetings with Chiefs and Council would also increase the visibility of the Program by providing information about the role of the Court Communicator. Implicit in this stated concern is the need for the Court Communicators to spend more time in the communities away from formal court sittings. Some of the Court Communicators have indicated that they would like to establish a relationship with the Community Legal Education Association of Manitoba which could assist in addressing some of the information needs of these communities. Again the increased use of posters and pamphlets is a suggested improvement. There were mixed reactions to the idea that the Court Communicators should go into the communities a day before court. Although this would

encourage a greater time commitment to general liaison activities and permit the Communicators to spend more time with their clients before court, there was also a concern that clients would not be willing to meet with them prior to the first court appearance.

In relation to training, the majority of the Court Communicators believe that a more structured approach to training must be established for any newly hired Court Communicator as well as regularly scheduled sessions for ongoing training. Suggestions for training included information about the law and legal procedures, training in interviewing skills, training on how to deliver lifeskills information, more information about Justices of the Peace, more information about other agencies including the development of a resource directory and updated information on new Criminal Code amendments and provincial legislation. Ongoing training sessions could include bringing in resource persons who could answer questions about the Legal Aid system, general questions pertaining to legal issues e.g. how does a Crown Attorney decide to proceed by indictment or by summary conviction, and what information can be provided when a Communicator is asked to speak to sentence. Some of the Communicators felt comfortable about speaking to sentence while others felt it is inappropriate to do so. It was also suggested that the Manual should be updated, and that the Communicators should also attend general workshops and conferences.

The issue of role clarification is also a crucial concern. For example, the northern Communicators are involved in interpretation activities despite the fact that there is an official policy that they should not do so. This causes confusion for both the Communicators and members of the justice system. As evidenced in the descriptive section about the types of activities performed by the Communicators, there is a great variance in activities among the Communicators. The issue of speaking to sentence is one such concern and another crucial concern is the extent to which Communicators should be involved in ancillary community activities such as participating in Justice Committees and Restitution Committees. There seems to be a policy for the Program that Communicators are not to engage in such activities. As one Communicator stated about a number of these issues, "Can I do this without getting into trouble?.....Is it appropriate to phone so and so?" There is an indication that there is a need for role clarification.

Other general comments included that the Chief Court Communicator should make field visits two or three times a year which could be tied in with other liaison activities in the communities. There should be greater access to using part-time interpreters on a need basis. There should be opportunities for advancement in the system for the Communicators to positions such as court clerks, Magistrates and others. The majority of Court Communicators felt that there should be greater use of local Magistrates and Justices of the Peace, although this recommendation goes beyond the purview of this study. Needless to say, the Communicators also believe more Communicators should be hired especially if they are to engage in increased liaison activities and to provide a back-up system.

In Winnipeg, due to time constraints, Communicators are not able to attend to Youth Court and hearings held at 373 Broadway; it is felt that this is a major weakness of the Program.

6. JUSTICE SYSTEM PERCEPTIONS OF THE COURT COMMUNICATOR PROGRAM

Respondents in this category include Crown Attorneys (5), Judges (5), Legal Aid and defense counsel (5), other court personnel i.e. court reporters and court clerks (3), one Sheriff, police officers and Band Constables (5), two respondents from the Remand Centre in Winnipeg, Probation Officers (5) and one Parole Officer.

Despite the differences among respondent groups included in this Section, there was a remarkable consensus in responses and in identified issues. Therefore, in the interests of brevity and to avoid repetition, this Section will outline the overall issues and perspectives rather than provide an analysis of information according to each respective respondent group.

Circuit court parties seemed to have a better understanding of the role of the Court Communicator than the Winnipeg-based respondents. It was often indicated that court parties "could not do without" the services of the Communicators. Their description of the activities undertaken by the Court Communicators was consistent with descriptions provided by the Communicators themselves. This includes the confusion in the North over whether there is or should be official sanction for the essential interpretation services provided by the Court Communicators, especially while on circuit.

Some of the Winnipeg respondents also indicated that they assumed the major role of the Communicators to be one of interpretation, despite the fact that the need for interpretation services at the Public Safety Building is not a daily requirement and independent interpreters are often utilized. The Winnipeg-based respondents did not have a clear understanding of the role of the Communicators.

Both circuit court and Winnipeg respondents indicated that there is no official contact between the management of the Program and key actors in the system, to explain and clarify the purpose and mandate of the Program and to discuss suggested improvements. This type of liaison is considered essential. In Winnipeg it was indicated that greater liaison should occur with all those who work at the Public Safety Building i.e. Judges, Crown Attorneys, Legal Aid,

social service agencies etc., which would lead to greater and more appropriate utilization of the Communicators.

Closely linked to the issue of a poorly understood mandate is the lack of visibility of the Program. Not only was it apparent that most respondents were not fully aware of the potential services of the Court Communicators, but it also seemed clear from these responses that native people themselves are not apprised of the nature of these services. As a native probation officer in Norway House stated, "people tend to surrender themselves to the courts without knowing what's happening and to plead guilty without understanding". It was also indicated that when native people receive their subpoenas in Norway House, they approach the Band Council for information and are not aware of the Communicators. It was suggested that on reserve meetings could be held with service providers, such as Native Alcohol and Drug Addiction Program (NADAP) workers, honorary probation officers and others to address the information needs of the native community. As a group, probation officers were very critical of the Program and believe the Court Communicators are not being "pro-active" in providing services to their clients and should be advocates for native people. There is a need for posters and pamphlets about the Program, and in the northern areas, radio and television could facilitate this communication.

All respondents indicated that there is a need to build stronger links between the Communicators and the communities they serve. This could be done by holding informational workshops in the communities, by scheduling meetings when appropriate with Chiefs and Band Councils, and by increasing the role of the Communicators in providing basic public education to these communities. In addition, Court Communicators should be involved in restitution, fine options, justice committees and others in order to have local visibility and to establish stronger relationships for referral purposes. The suggestion that the Communicators should be in the communities a full day ahead of the court parties was often made.

Most respondents indicated that the Communicators are too associated with the court parties and therefore jeopardize what has been referred to in this report as the role of "friend to the accused". This comment is obviously applicable to Communicators who work on circuit courts, but further comments also indicated that the Program

is too associated with the Attorney General's Department and its inherent link to prosecutions.

Legal Aid and defense counsel were the most familiar with the Court Communicator Program. Communicators often assist defense counsel in interviewing and interpretation in order to ensure that the accused is aware and understands the nature of the charges. However, there were frequent comments that the court parties often do not understand cultural and conceptual differences inherent in the two cultures. The legal concepts of "guilty" and "not guilty" are not translatable into native languages as they tend to mean "I did it" or "I didn't do it". Apparently, in the Cree language the term Judge is translated as "the man sitting over there", the Crown Attorney is "the man talking to the man over there" and defence counsel is "the man talking for you to the man over there". Obviously, these distinctions are indicative of serious obstacles in providing a clear understanding to native people of what the court process is about. There were strong recommendations that native sensitization sessions should be held with members of the court parties to explain these conceptual and cultural differences.

A number of recommendations were made about the nature and type of activities that should be undertaken by the Communicators in order to strengthen client contact. One of the most consistent responses among all respondents was that there is a lack of information provided to native clients after the original contact is made to explain the charges. There was a consensus that the Communicators should be explaining sentencing dispositions to the accused as often offenders do not understand what happened to them in court. In other words, Communicators should be following through with their clients from the first appearance up to the point of sentencing.

In addition, respondents associated with native inmates in custody, i.e. the Remand Centre in Winnipeg and police lock-ups in the rural areas, believe that the Communicators should be contacting native inmates in custody prior to their first appearance in court.

Remand Centre respondents perceive the work of the Communicators as a "hit and miss" approach where the Communicators only visit inmates on a request basis. However, native inmates often do not know enough to request the services of a Communicator. There is a particular need for inmates from the rural

areas of the province who have no contacts in the city, to be familiar with the Court Communicator Program. It was recommended that the Communicators should visit the Remand Centre on a systematic basis.

Similarly, police respondents in the rural areas, who generally are not very familiar with the Court Communicator Program believe that the Communicators should be checking, especially after weekends, to see if any native people are in custody. Police representatives would like a central phone number to advise Communicators about certain cases that need more attention, and often find it difficult to contact the Communicators other than on the day of court.

In Winnipeg, all respondents indicated that Court Communicators should be providing their services in Youth Court as young offenders are as likely, if not more likely, to be in need of the services of a Court Communicator.

The issue of training was identified by all respondents. Comments indicated that a more intensive and formal training program should be established for new Court Communicators and regularly scheduled on-going training sessions should be in place for all Communicators. Training should focus on all aspects of the law, on the development of interpersonal and interviewing skills, on providing more information about court proceedings, on a complete review of available services and what they can provide, on the development of public speaking skills and on training the Communicators in a manner similar to the type of training that is provided to paralegals.

Finally, there were concerns expressed about the management of the Program. General comments indicated that the Program is poorly run, lacks direction, needs a change in management and Court Communicators are doing things they are not qualified to do. Comments made about the management structure of the Program arose out of discussions concerning the lack of promotion and liaison activities for the Program and the lack of training opportunities for the Communicators. Comments indicated that the respondents were unsure of the mandate of the Program and concluded that this lack of clarity about the mandate is shared by most of the Communicators. A lack of direction was therefore often cited as a basic weakness of the Program.

7. PERCEPTIONS FROM OTHER AGENCIES

Respondents in this category include representatives from the following agencies: St. Norbert Foundation, The Salvation Army, Awasis Agency in Norway House, the Community Outreach Program of the Optimist Club which administers a Fine Options Program, The Family Support Centre and the Elizabeth Fry Society.

One of the respondents from these agencies was fully aware of the types of services the Communicators provide at the Public Safety Building; another agency at the PSB has a general understanding of the work of the Court Communicators but has never been provided with formal information about the role of the Communicators. The general impression from respondents at PSB is that there is not much coordination among the agencies represented in that building and that the work of the Communicators is not that visible. Respondents agreed that the Communicators should be seeing their clients in the Remand Centre on a more systematic basis. The problem in the Remand Centre seems to be particularly acute in the case of male inmates, as the Elizabeth Fry Society does address the needs of the female clientele of the Remand Centre. One respondent indicated that the Communicators should be doing more follow-up with their clients especially in relation to contact with families of the accused and referrals to agencies that could look after housing, welfare or alcohol/drug counselling needs. In addition, it was agreed that Communicators should also be more present at Youth Court because of the high proportion of native young offenders. Comments about training issues also indicated that a more formalized program should be set in place that would include a focus on native issues, counselling and interpersonal skills.

A respondent from the Family Support Centre, who works primarily with native people, indicated that the Court Communicator Program is not very well known. His impression was also that not many of the agencies he works with are at all aware of the Program. There is a need for more visibility and promotion of the Program and a greater link between the justice system and community agencies. This information was confirmed by the respondent of the Community Outreach Program who deals with offenders on the Fine Options Program who indicated that native people are not aware of the services of Court Communicators.

In Norway House, the Awassis worker indicated that native people do not know where to direct questions about charges and the court process, and he is often questioned about these matters. He indicated that information workshops would be welcome in his community and radio and television would be available to provide this information, in English and in Cree.

8. PERCEPTIONS FROM NATIVE ORGANIZATIONS

Respondents in this group include a representative of the Thompson Friendship Centre, the Ma-Mow-We-Tak Centre, a representative from the First Nations Confederacy, two respondents from the Manitoba Association of Friendship Centres, two respondents from Ma-Mawi-Chi-Itata Centre in Winnipeg, a telephone conversation with a representative in Thompson of the Manitoba Keewatinowi Okimakanak and an interview with a representative of the Manitoba Metis Women's Alliance. Repeated unsuccessful attempts were made to schedule a meeting with a representative of the Manitoba Metis Federation. It should be noted that this sample of respondents cannot claim to be comprehensive, however it will provide an indication of some of the views about the Program.

In Thompson, a respondent from the Friendship Centre indicated that he believes the Program is well known among criminal justice professionals in the community but not at all in the native community. The Program should be promoted through the media and written brochures with additional workshops in the schools and with community groups. "The Program provides no training, is understaffed and operates in an unhealthy environment where there are inadequate quarters for the staff." The Program should, in his view, be removed from its location in the courthouse to the Friendship Centre where it would have "the visibility and access to native people it deserves". In addition, he was concerned that sufficient Communicator services are not formally being provided to native young offenders.

The representative of the First Nations Confederacy clearly indicated that the Program should be turned over to the respective Chiefs and Council. He was not aware that an Advisory Board to ensure native input existed and feels that attendance on such a Board would be token at best. It was also clearly indicated that the Court Communicator Program is not a priority for the First Nations at this time and is against the Friendship Centres administering it as the Friendship Centres are too removed from the reserves. The Court Communicators should be accountable to the Chiefs and would be in a better position to provide a high quality service under that model.

Prior to contacting the Manitoba Association of Friendship Centres for a meeting in the context of this Program Review, the Executive of that Association had already determined that representations would shortly be made to the Attorney-General to request that the Association become the official carrier agency for the provincial Program. Points discussed at the meeting were subsequently confirmed in writing. A copy of this letter is included in Appendix D. The Association believes it should administer the Program for the following five reasons:

- The Program is presently too associated with the Attorney-General's Department and its prosecution activities, therefore too associated with the government;
- The Provincial Association of Friendship Centres could through its existing Board of Directors administer the Program without needing to establish a separate administrative body for the Program;
- Friendship Centres presently provide an array of social services for native people and an additional well established network of services which would complement referral services that Court Communicators are often required to make;
- The Courtworker Programs in Saskatchewan and Ontario are presently administered by the Friendship Centres in those two provinces with "a good measure of success";
- The issue of native self-determination and self-control is particularly applicable in the context of this Program.

The two respondents from the Ma Maw: Wi Chi Itata Centre indicated that native people in conflict with the law are not aware of the services of the Court Communicators. It was indicated that it is often next to impossible to contact a Court Communicator. There should be more visibility for the program with meetings held with service providers in the native organizations and general public education workshops. There should be more training provided to the Court Communicators and more direct follow-up with the clients.

A respondent from the Manitoba Keewatinowi Okimakanak organization in Thompson, who was contacted to set up a meeting, indicated that there was no need for a meeting as he didn't know anything about the Court Communicator Program and that the MKO is doing "it's own thing" about the justice system.

9. PERCEPTIONS FROM CLIENT INTERVIEWS

There were a total of 24 interviews conducted with clients or potential clients of the Court Communicator Program. Two were conducted during the circuit court sitting in God's Lake Narrows; the remaining 22 were conducted in Winnipeg or in the surrounding area. In the Winnipeg sample, 7 females and 7 males were interviewed at the Remand Centre; one was interviewed at the Rockwood Institution which is part of the Stoney Mountain Penitentiary complex; the remaining 7 were interviewed at the Agape Table Community Resource Centre where all are clients of the fine options program at that agency. These locales were selected because of the access that was provided to the researcher. All respondents are of native ancestry.

In God's Lake Narrows, one of the two had heard of the Court Communicator; the other had not. They both felt that the role of the Communicator should be explained to them.

Of the 22 interviewed in the Winnipeg area, 17 respondents had never heard of the Court Communicator Program but the majority, once informed, asked questions about the role of the Communicator and how they could obtain their services. Some of the comments included: "Thanks for telling me about the Court Communicator....I will use their services next time."...."I could have used their services because in court some of the words were too big and I couldn't understand."...."I have trouble understanding English and the big words in court."...."Some people plead guilty just to get it over with....a Court Communicator could help with this."....." If people coming into court knew about them, they could use the service of having what's happening explained to them."...."I saw the name plate on the door but didn't know what it means." One respondent indicated that he could have used the services of a Communicator as he was sentenced for two years and it was "quite a while" before he realised that he had received a two year sentence.

There were five respondents in the sample who had heard of the Communicators and three who did use their services. The two who did not, did not know how to request their assistance. In the case of the other three, services provided included: help in finding a lawyer, information on bail, help in having the accused released on his own recognizance, explanation of legal terms and assistance in obtaining housing in Winnipeg.

10. STATISTICAL INFORMATION

Comments made in this report on statistical information will reiterate those made in the Sinclair Report in 1977.

Basic data sheets compiled by the Court Communicators specify a number of activities that are recorded by means of a check mark beside the name of the client. These include: "locating accused or witnesses, speak to crown re remand, speaking to accused, referrals from Judge, referring and speaking to duty counsel, speaking on behalf of accused in court" etc. A copy of this data sheet is included in Appendix E.

In reviewing data sheets for two sample months, the two most common areas recorded were "speaking to the accused" and "communicating with lawyers and clients." Some of the other categories were occasionally recorded but these activity sheets do not provide a realistic accounting of how the Court Communicators spend their time.

The data sheets reviewed for the purposes of the Sinclair Report were very similar although the present data sheets contain a few additional items. On this subject the Sinclair Report concluded:

There seems to be a lack of purpose to the method of statistical compilation. The figures made available to the evaluation at first appeared to reveal certain trends, but closer examination, combined with our interviews with the communicators on an individual basis, suggest that any interpretation or emphasis placed upon these statistics might be deceiving.....

As far as the use of these statistics as a measure of the programme's effectiveness is concerned, they cannot be said to achieve that purpose either. Should those requiring such statistics feel the need for their being compiled, it is suggested that the categories listed are not altogether helpful, and further, that it is questionable whether statistics being used to measure the programme's effectiveness can be objectively accumulated by the performers of that programme.²

²An Evaluation of Manitoba's Court Communicator Program. Sinclair, Murray, unpublished manuscript, 1977. pp 6-7.

An effort is presently being made by the federal Department of Justice to establish a management information system for all the courtworker programs in the country. If implemented, this management information system should provide a method of data collection which will be useful in future evaluations of these types of programs.

11. ISSUES AND RECOMMENDATIONS

Issues and recommendations are organized according to three categories: administration, program enhancement and promotion. In addition, this section will begin with an underlying principle which must be kept separate and provide the context for the remaining issues.

a) Underlying Principle

The issue of native self determination and control over services for native people is one which continues to draw attention, and the "devolution" of such services has started to occur most notably in the area of child welfare. It is anticipated that this movement will continue to grow and is particularly noticeable in the area of native courtworker services, as Manitoba is the only province in Canada where courtworker services are delivered by a non-native agency. Consistent with this issue is the reaction of a number of respondents who worry that the association between the Court Communicator Program and the Attorney-General's Department is not a favourable one.

Recommendation 1:

It is recommended that a consultation process be initiated with native groups to determine whether an existing native organization or a separate native carrier agency should be established with a view to "devolving" the native Court Communicator Program to a native agency.

b) Administration**i) Program Objectives**

Comments by respondents in many of the categories indicated that there is a need for a clarified mandate for the Program. The objectives as previously enunciated in the Section entitled "Description of the Manitoba Court Communicator Program" indicate that the primary goal of the Program is to "bridge whatever gaps may exist between the criminal justice system and the Native People." Although this overall goal is sound, there seems to be a lack of precision as to how this goal is interpreted. The Court Communicators themselves are unsure as to whether this includes participating in local committees and the degree to which they should be involved in what could be called ancillary activities. This lack of precision was also confirmed in interviews with justice personnel who tended to view the role of the Communicator in terms of their observations in court. Whether the Communicators should be speaking to sentence, representing the accused when duty counsel is not present, interpreting, or explaining sentencing dispositions, tended to vary according to how the individual Communicators choose to function as opposed to a clear understanding of the parameters of the role and the job. Some respondents felt they were doing too much in a role for which they are not qualified i.e. explaining legal advice; others felt that they were not doing enough. It is fair to conclude that the objectives and mandate of the Program should be clarified in a more concrete manner.

Recommendation 2:

It is recommended that the objectives of the Program be re-assessed and re-formulated into a working model that would clarify the role of the Court Communicator.

ii) Management Structure

Although the organizational chart for the Court Services Division of the Attorney General's Department indicates that the Chief Court Communicator reports to the Director of Court Services, in reality, the Chief Court Communicator reports to the Chief Provincial Court Judge. The Chief Court Communicator is located in the offices of Native Clan Inc. The location of the Chief Court Communicator in

the offices of Native Clan leaves one with the impression of a potential conflict of interest as the Chief Court Communicator is President of Native Clan and Native Clan is a member of the Advisory Board for the Program. On entering the offices of Native Clan, there is no indication that the Chief Court Communicator is employed by the Attorney General's Department. The Program has been suffering from a number of internal problems, i.e. lack of visibility, lack of training, lack of liaison with key actors etc. Most respondents have indicated a need for stronger management and direction. Although the issue of native control should continue to be examined, it is felt that the internal problems can best be addressed by strengthening the profile of the Program within the Attorney General's Department, as the Attorney General is presently ultimately responsible for the Program.

Recommendation 3:

It is recommended that the Chief Court Communicator be relocated from the offices of Native Clan to an office in the Court Services Division, and that reporting and accountability lines be strengthened consistent with the organizational chart.

iii) Advisory Board

As with issues relating to the management structure, the absence of a strong Advisory Board has undoubtedly been detrimental to the Program because of the lack of input from native groups. Although a mixed reaction was evidenced by native groups to the idea of an Advisory Board, there is still a strong need for re-constituting the Advisory Board especially as a first step in discussing the devolution of the Program and for a stronger native input.

Recommendation 4:

It is recommended that serious efforts be undertaken to establish a representative Advisory Board comprised of native groups willing to participate in developing a stronger Program responsive to native needs in the province.

iv) Resources

It is apparent that if the Court Communicator Program is to meet the needs of its clientele, greater focus will have to be given to liaison, community workshops, training and other issues identified in this report. As it has been established that additional positions do exist which are not presently being filled, the need to staff these positions should be reviewed.

Recommendation 5:

It is therefore recommended that the managers of the Program review the need for additional Court Communicators in the context of recommendations advanced in this report.

v) Training

There is a consensus among all respondents that sufficient training is not being provided to the Court Communicators. This issue had previously been identified in the Sinclair Report where it was recommended that a basic 7 to 10 day program be provided for new Court Communicators. Suggestions by respondents in this study have included: basic information about Canadian law and court decorum; the development of interviewing and interpersonal skills; curriculum which would address basic issues relating to native culture and the criminal justice system and cross-cultural communication; the development of a resource directory and training on what referral sources can provide; information about Magistrates and Justices of the Peace and their authority; information about the Legal Aid system and their criteria; the development of public speaking skills and how to conduct workshops; basic information on counselling skills; training similar to training provided to paralegals and the development in training that would focus on advocacy skills. In addition, it was suggested that the present "Manual for Court Communicators" be updated and that new amendments to the Criminal Code and provincial legislation be systematically circulated as soon as possible. On an ongoing basis, semi-annual meetings of the Court Communicators should be organized that would bring in various resource persons on many of the elements identified by the respondents.

Recommendation 6:

It is therefore recommended that a formal training program be established for new Court Communicators and an ongoing training program also be set in place on at least a semi-annual basis.

vi) Statistical Information

Both the Sinclair Report and this Program Review have indicated that the present format for statistical gathering does not provide adequate information on the Court Communicator Program. The federal government is presently undertaking an exercise with all the native courtworker programs to establish a management information system.

Recommendation 7:

It is recommended that the province of Manitoba engage in consultations with the Department of Justice Canada to establish a management information system that will address the statistical gathering needs of the Program.

vii) Interpretation

The issue of interpretation was often raised especially in the northern context of Thompson and the circuits which originate from there. There seems to be some confusion over whether the Court Communicators are officially allowed to interpret as opposed to interpretation on an ad hoc basis. The Court Communicators themselves are not comfortable with this role and would prefer to have professional interpreters provide this function on a fee for service basis. There seems to be no problem with the Communicators explaining charges etc. in the native tongue of the accused; the problem is when they are requested to interpret during court proceedings. The problem is further compounded by the fact that the planes which fly to circuit court areas often may not have room for an additional person i.e. an interpreter. Another problem associated with the issue of interpretation is the title of the Program. The term "Court Communicator" seems to inherently convey that Communicators act primarily as interpreters. All respondents were

asked whether this connotation was true; the majority of respondents indicated that they preferred the term "native courtworker" as a title for the Program as it provides a better appreciation of the role of the Communicators.

Recommendation 8:

It is recommended that the feasibility of hiring interpreters on a fee for service basis be examined especially in the context of Thompson and its circuits. It is further recommended that the title of the Program be changed to "Native Courtworker Program" to avoid the connotation of interpretation which seems to be implicit in the term "communicator"

c) Program Enhancement

i) Remand and Lock-Ups

A consistent finding of the study is that the Communicators are not visiting clients in the Remand Centre or in local lock-up facilities where there are likely to be native inmates in need of services.

Recommendation 9:

It is recommended that a consistent effort be made by the Communicators to establish regular contact with inmates in remand and lock-up facilities, especially on Monday mornings.

ii) Youth Court

It appears that the Court Communicators are only able to attend Youth Court on a request basis, with the exception of circuit courts where all matters are usually handled during the same court sitting. The issue of attendance at Youth Court is especially problematic in Winnipeg, Brandon, Dauphin and Portage-la-Prairie. All respondents indicated that Court Communicators should be present at Youth Court because of the high proportion of native young offenders who should have access to Court Communicator services.

Recommendation 10:

It is recommended that the schedules of the Court Communicators be examined in order to determine how Communicator services could be augmented in Youth Courts across the province.

iii) Sentencing

Almost all respondents indicated a concern that clients of the Court Communicator Program are not presently being provided with sufficient information as to the significance of sentencing dispositions. It was further indicated that explaining sentencing dispositions to the accused should be included in the role of the Communicators.

Recommendation 11:

It is recommended that the Communicators should provide follow-up to the accused by ensuring that the accused understands the sentencing dispositions.

d) Promotion

i) Visibility of the Program

The lack of visibility for the Program was a constant issue for all respondents in the study, including the Court Communicators themselves. The Program does not seem to benefit from any active promotion, either through written materials or direct communication with the key actors who could benefit from a greater understanding of how the Communicators could be utilized. This problem could be due to the Communicators not knowing how to promote the Program, to the lack of time available for such activities and/or a lack of time spent by the Chief Court Communicator in engaging in such promotion. It is especially critical to learn that clients interviewed did not at times know how to request the services of a Communicator.

Recommendation 12:

It is recommended that the Chief Court Communicator, in consultation with the individual Court Communicators, develop a strategy to promote the Program with all

members of court parties, other social agencies, client groups, native organizations and Band Councils on reserves.

ii) Liaison

Associated to the issue of lack of visibility, is the issue raised by many respondents of the need for regular liaison with court personnel and the respective communities. In many areas of the province there are Justice Committees, Alternative Measures Committees and other criminal justice related community committees that meet about specific matters and also to facilitate communication and referral potential. In addition, native organizations including Friendship Centres have at their disposal a network of services that would be appropriate for the native clientele of the Court Communicators.

Recommendation 13:

It is recommended that the Court Communicators strengthen their community base through participation or regular contact with local native and coordinating committees.

iii) On-Reserve Contact

In areas served by the circuit courts, there is a strong impression that the Court Communicators are perceived as part of the court party. Presently very little contact is made with community leaders, and the Communicators are only present during circuit court sittings.

Recommendation 14:

It is recommended that the feasibility of Court Communicators attending on reserves prior to the circuit court sitting be examined with a view to trying this approach on selected reserves on a trial basis.

SUMMARY OF RECOMMENDATIONS

a) Underlying Principle

Recommendation 1: It is recommended that a consultation process be initiated with native groups to determine whether an existing native organization or a separate native carrier agency should be established with a view to "devolving" the native Court Communicator Program to a native agency.

b) Administration

Recommendation 2: It is recommended that the objectives of the Program be re-assessed and re-formulated into a working model that would clarify the role of the Court Communicator.

Recommendation 3: It is recommended that the Chief Court Communicator be relocated from the offices of Native Clan to an office in the Court Services Division and that reporting and accountability lines be strengthened consistent with the Attorney General Department's organizational chart.

Recommendation 4: It is recommended that serious efforts be undertaken to establish a representative Advisory Board comprised of native groups willing to participate in developing a stronger Program responsive to native needs in the province.

Recommendation 5: It is recommended that the managers of the Program review the need for additional Court Communicators in the context of recommendations advanced in this report.

Recommendation 6: It is recommended that a formal training program be established for new Court Communicators and an ongoing training program also be set in place on at least a semi-annual basis.

Recommendation 7: It is recommended that the province of Manitoba engage in consultations with the Department of Justice Canada, to establish a management information system that will address the statistical gathering needs of the Program.

Recommendation 8: It is recommended that the feasibility of hiring interpreters on a fee for service basis be examined, especially in the context of Thompson and its circuits. It is further

in the context of Thompson and its circuits. It is further recommended that the title of the Program be changed to "Native Courtworker Program" to avoid the connotation of interpretation which seems to be implicit in the term "communicator".

c) Program Enhancement

Recommendation 9: It is recommended that a consistent effort be made by the Communicators to establish regular contact with inmates in remand and lock-up facilities, especially on Monday mornings.

Recommendation 10: It is recommended that the schedules of the Court Communicators be examined in order to determine how Communicator services could be augmented in Youth Courts across the province.

Recommendation 11: It is recommended that the Communicators provide follow-up to the accused by ensuring that the accused understands the sentencing dispositions.

d) Promotion

Recommendation 12: It is recommended that the Chief Court Communicator, in consultation with the individual Court Communicators, develop a strategy to promote the Program with all members of court parties, other social agencies, client groups, native organizations and Band Councils on reserves.

Recommendation 13: It is recommended that the Court Communicators strengthen their community base through participation or regular contact with local native and coordinating committees.

Recommendation 14: It is recommended that the feasibility of Court Communicators attending on reserves a day prior to the circuit court sitting be examined with a view to trying this approach on selected reserves on a trial basis.

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APPENDIX A - INTERVIEW SCHEDULES

COURT COMMUNICATOR INTERVIEW SCHEDULE

Communities Served:

Courts Served:

- 1) How long have you been employed as a Court Communicator?
- 2) Please describe what you do in your job and how you spend your time.
- 3) Do you believe your time should be spent in other types of activities?
- 4) What do you believe to be the main purpose of the Court Communicator Program?
- 5) Should the purpose of the Program be re-adjusted?
- 6) In what way has the Program been effective? Why has this happened?
- 7) In what ways has the Program not been effective? Why has this happened?
- 8) What are the attitudes of the people who work in the criminal justice system i.e. crown prosecutors, lawyers, judges, police etc., in your area toward the Court Communicator Program?
- 9) What are the attitudes of Native people in your area toward the Court Communicator Program?
- 10) What could be done to improve the Program?
- 11) What training did you receive when you were first employed as a Court Communicator? What training would you think appropriate for Court Communicators when they first start and on an ongoing basis?
- 12) By what means do you report to the Chief Court Communicator?
- 13) Do you often communicate with the other Court Communicators in the province?

14)How do you ensure that potential clients become aware of the services of the Court Communicator?

15)How do you ensure that people working in the criminal justice system will utilize the services of the Court Communicator?

16) Are you ever involved in providing public awareness and education programs on the criminal justice system or the Court Communicator Program?

17)Are there any communities in your area which you are not able to serve?

CRIMINAL JUSTICE SYSTEM INTERVIEW SCHEDULE

NAME:

ROLE:

- 1)How long have you been involved in your profession?
- 2)How long have you been in this community?
- 3)How long have you been acquainted with the Court Communicator Program?
- 4)What do you believe is the purpose of the Court Communicator Program?
- 5)How well known is this Program among criminal justice professionals?
- 6)How well known is the Program among Native people?
- 7)What has been the effect of the Program in your area?
- 8)What are the strengths and weaknesses of the Program?
- 9)What could be done to improve the Program?
- 10)How would you rate the Program overall?
 - a)very good
 - b)good
 - c)satisfactory
 - d)unsatisfactory
 - e)don't know

CLIENT INTERVIEW SCHEDULE

Home Community:

- 1)How did you first hear about the Court Communicator?
- 2)How often have you used the services of the Court Communicator?
- 3)What did the Court Communicator do for you?
- 4)Did the Court Communicator help you?
- 5)Were there things the Court Communicator could not do for you?
- 6)Were there any difficulties relating to language?
- 7)Would you encourage other people in trouble to use this service?

**APPENDIX C - OBJECTIVES OF THE COURT COMMUNICATOR
PROGRAM**

OBJECTIVES OF THE COURT COMMUNICATOR PROGRAM

The objectives of the Court Communicator program are to assist Native peoples in Manitoba to develop a better understanding of their rights, interest, privileges and responsibilities in relation to the criminal justice system. It is the role of a court communicator to assist Native peoples, wherever they may be in the criminal justive system, through the process. The court communicator attempts to bridge whatever gaps may exist between the criminal justice system and the Native people.

One of the key features of the court communicator program is Liaison. Court communicators cooperate and work with the personnel comprising the various parts of the criminal justice system in hopes of contributing to the achievement of the various goals of the system as well as contributing to the development of a more complete understanding within the justice system of the needs and concerns of Native people.

ACTIVITIES

In addition to the general job description outlined in the Manual for court communicator's, each court communicator brings to this job a unique set of personal circumstances, experiences, interests and abilities. These unique features, combined with the unique and varied situation in which they operate in terms of the community enforcement agencies, Judges, court officials, lawyers, and law, indicate that each court communicator do somewhat different things in different ways in different situations.

Another area in which the court communicator has expanded is as an agency of Probation. In several areas, the court communicator assists in the preparation of pre-sentence reports and supervises persons who have been placed on probation, under the direction and guidance of a trained probation officer.

COURTS

Attending court is the predominant activity of the court communicator. The specific activities vary with the court concerned; law courts, family or juvenile. A general duty shall be to make themselves equally available to the court and to the Native people concerned. Through their presence in the court, the court communicator indicate their willingness to be of assistance in whatever way is required by the judicial system and more important to the Native people who are involved in the system. By attending court, the court communicator generates a series of other activities which constitute much of their work.

INFORMATION ABOUT THE LAW

Many times court communicator's find themselves being questioned by Native people as to the general nature of their charges, the possible sentence and certain court procedures, an example being reserving plea in order to contact legal advice.

Many Native people discuss the details of their case with the court communicator and seek his/her advice as to what to do. The court communicator tries to ensure that the accused has a general understanding of the situation and the kind of decisions the personal will have to make. Depending on the circumstances, the court communicator may advise the accused to discuss the matter with a lawyer. He may also suggest that it is not necessary to seek legal advice and that the accused can decide the matter for himself.

Court communicator's assist Native accused in filing applications to the Manitoba Legal Aid Society. This ensures the application is correctly completed and forwarded to the proper authorities.

APPEARING FOR OTHERS

One duty sometimes performed by the court communicator is that of appearing in court for an accused who is unable to attend personally, due to legitimate reasons, such as employment, or a trap line, or remote fish/bush camp. The court communicator will explain the reason for the accused's absence and indicate what instructions, if any, he/she has received. A court communicator will NOT act as an agent if he/she feels they are being "used" by an accused. The court communicator shall encourage Native people to accept their responsibility of appearing in court.

INTERPRETING

A court communicator should not act as a sworn interpreter for court proceedings because of the conflict of interest which could exist or might appear to exist. This is because his primary duty is to assist the Native person through the court system and the position of official court interpreter demands that such person be independent.

At the same time, it might be necessary or desirable for a court communicator to provide interpreting services where he or she is proficient in the particular Native dialect involved. This might include assisting an accused person or witness communicate with a lawyer or during the court process in speaking to sentence on behalf of an accused or explaining the nature of the charge or other proceedings. A court communicator will often be called upon to explain the nature of the proceedings to members of the family or spectators where their comprehension of English is restricted.

SPEAKING TO SENTENCE

Many Native accused, upon pleading guilty, indicate they have nothing to say on their own behalf. The court communicator can play an important role here in providing the court with information about the accused and his circumstances which may be related to the case. In some courts the court communicator will be encouraged to provide such information whenever he feels it important, while in other courts the court communicator will be allowed to provide relevant information only when requested.

In general, the court communicator tries to ensure that the court is aware of the circumstances of the accused, either directly to the court or through the Crown Attorney or other processes. The court communicator also encourage and provide moral support for Native people to speak up in court on their own if they have questions to ask or information to give.

EXPLAINING ORDERS, DOCUMENTS AND PROCEDURES

Many Native people receive legal documents and orders which they are unable to understand. A court communicator is often called upon to provide these people with a general understanding of what it means or he/she can make necessary arrangements for the person to contact another resource, such as a lawyer or the issuing body to find out exactly what is required.

In many ways, it seems that Native people see the court communicator as a person to whom they can turn to for advise on a variety of matters which generally fall within the scope of the justice system. The inquiries are not limited strictly to criminal matters. Court communicator's are consulted in regards to statutes involving child welfare, motor vehicles, highways, liquor, fish and game, city by-laws, as well as a variety of administrative and procedural matters which affect the lives of Native people but which they often fail to fully understand.

WORKSHOPS

The court communicator should create close working relations with the Native organizations and Friendship Centres within his area, and should assist and participate in regional meetings with workshops pertaining to the courts and where necessary contact and provide the necessary resource people and more important explain their role and function in the courts.

RESPONSIBILITY

The most important concern of the court communicator is his/her image to the courts, law enforcement agencies, the general Native population. It is an accepted fact that unless you have the complete trust and cooperation of the courts and the people, our effectiveness as court communicator's is completely nullified.

**APPENDIX D - CORRESPONDENCE FROM THE MANITOBA
ASSOCIATION OF FRIENDSHIP CENTRES**



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December 12, 1986

Ms. Therese Lajeunesse
Research and Planning
Attorney General's
Department
5th Floor - 405 Broadway
Winnipeg, Manitoba
R3C 3L6

Dear Ms. Lajeunesse:

Further to our meeting with you and Ms. Francine Lee,
December 2, 1986 I wish to confirm the points stressed
to you during that meeting.

1. The Court Communicator's Program must be distinctly separated from the government due to potential conflict of interest, and that Court Communicators should be working for the clients as opposed to working for the government.
2. In separating the Court Communicators from government there is no need to set up a separate board to administer the Court Communicator program because the Friendship Centres are community based organizations; and also organized at a provincial level. These organizations would be quite capable of administering the Court Communicators Program.
3. Why Friendship Centres? Friendship Centres are ideal because most of the cases Court Communicators deal with are not just Court issues; they are usually linked to other social problems (ie: unemployment, alcohol abuse, etc.) Friendship Centres have an internal network of programs that deal with these various problems and where there are no Friendship Centre program; the Friendship

Ms. Therese Lajeunesse

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3. Centres have a network to the other community agencies that provide service and Friendship Centres act as a referral system.
4. The Court Communicators Program is administered in Saskatchewan and Ontario by the Friendship Centres with a very good measure of success.
5. If this government is serious about Native self-control, self-determination; then shouldn't Native people be in charge (control) of Native programs?

Trusting the above accurately reflects our meeting, I remain,

In friendship,



Nelson Mayer, President
Manitoba Association of Friendship Centres Inc.

NM/gf

**APPENDIX E - DATA COLLECTION SHEET FOR STATISTICAL
INFORMATION**

[illegible]